

## Environmental Protection Agency

## § 80.225

or wholesale purchaser-consumer facility, the transferor shall provide to the transferee documents that include the following information:

(i) Identification of the gasoline as being GPA gasoline;

(ii) A statement that the gasoline may not be distributed or sold for use outside the geographic phase-in area.

(2) Except for transfers to truck carriers, retailers and wholesale purchaser-consumers, product codes may be used to convey the information required by paragraph (b)(1) of this section if such codes are clearly understood by each transferee.

(3) The requirements under paragraph (b)(1) of this section are in addition to the requirement under § 80.210(e), where appropriate, to identify gasoline as being S-RGAS.

(c) *GPA gasoline use prohibitions.* (1) All parties in the distribution system, including refiners, importers, distributors, carriers, oxygenate blenders, retailers and wholesale purchaser-consumers, are prohibited from:

(i) Selling, offering for sale, dispensing, distributing, storing or transporting GPA gasoline for use outside the geographic phase-in area; and

(ii) Commingling GPA gasoline with gasoline not designated as GPA gasoline unless the mixture is classified as GPA gasoline.

(2) Gasoline not designated as GPA gasoline may be distributed or sold for use in the geographic phase-in area.

### § 80.220 What are the downstream standards for GPA gasoline?

(a) *GPA gasoline.* (1) During the period February 1, 2004 through January 31, 2005, the sulfur content of GPA gasoline at any downstream location other than at a retail outlet or wholesale purchaser-consumer facility, and during the period March 1, 2004 through February 28, 2005, the sulfur content of GPA gasoline at any downstream location shall not exceed 378 ppm.

(2) During the period February 1, 2005 through January 31, 2007, the sulfur content of GPA gasoline at any downstream location other than at a retail outlet or wholesale purchaser-consumer facility, and during the period March 1, 2005 through February 28, 2007, the sulfur content of GPA gasoline at

any downstream location shall not exceed 326 ppm.

(b) *GPA gasoline mixed with S-RGAS.* Notwithstanding the requirements in paragraph (a) of this section, the sulfur standard applicable to a mixture of GPA gasoline and S-RGAS gasoline at a downstream location shall be the greater of the standard under paragraph (a) of this section or the standard determined under § 80.210.

(c) Notwithstanding paragraph (a) of this section, the sulfur content standard of 326 ppm at any downstream location may be extended as provided under § 80.540(m).

[65 FR 6823, Feb. 10, 2000, as amended at 66 FR 5136, Jan. 18, 2001]

## HARDSHIP PROVISIONS

### § 80.225 What is the definition of a small refiner?

(a) A *small refiner* is defined as any person, as defined by 42 U.S.C. 7602(e), who: (1)(i) Produces gasoline at a refinery by processing crude oil through refinery processing units;

(ii) Employed an average of no more than 1,500 people, based on the average number of employees for all pay periods from January 1, 1998, to January 1, 1999; and

(iii) Had an average crude capacity less than or equal to 155,000 barrels per calendar day (bpcd) for 1998.

(2) For the purpose of determining the number of employees and crude capacity under paragraph (a)(1) of this section, the refiner shall include the employees and crude capacity of any subsidiary companies, any parent company and subsidiaries of the parent company, and any joint venture partners. A subsidiary under this paragraph means any subsidiary in which the refiner or parent company has a 50% or greater ownership interest.

(b) The definition under paragraph (a) of this section applies to domestic and foreign refiners. For any refiner owned by a governmental entity, the number of employees as specified in paragraph (a) of this section shall include all employees of the governmental entity.

## § 80.230

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(c) If, without merger with, or acquisition of, another business unit, a company with approved small refiner status under § 80.235 exceeds 1,500 employees, or a corporate crude capacity of 155,000 bpcd after January 1, 1999, it will be considered a small refiner for the duration of the small refiner program.

(d) Notwithstanding the definition in paragraph (a) of this section, refiners who acquire a refinery after January 1, 1999, or reactivate a refinery that was shutdown or was non-operational between January 1, 1998, and January 1, 1999, may apply for small refiner status in accordance with the provisions of § 80.235.

[65 FR 6823, Feb. 10, 2000, as amended at 66 FR 19306, Apr. 13, 2001; 67 FR 38340, June 3, 2002; 67 FR 40182, June 12, 2002]

### § 80.230 Who is not eligible for the hardship provisions for small refiners?

(a) The following are not eligible for the hardship provisions for small refiners:

(1) Refiners with refineries built after January 1, 1999;

(2) Refiners who exceed the employee or crude oil capacity criteria under § 80.225(a) on January 1, 1999, but who meet these criteria after that date, regardless of whether the reduction in employees or crude capacity is due to operational changes at the refinery or a company sale or reorganization;

(3) Importers; and

(4) Refiners who produce gasoline other than by processing crude oil through refinery processing units.

(b)(1) Refiners who qualify as small under § 80.225, and subsequently employ more than 1,500 people as a result of merger with or acquisition of or by another entity, are disqualified as small refiners. If this occurs the refiner shall notify EPA in writing no later than 20 days following this disqualifying event.

(2) Any refiner who qualifies as small under § 80.225 may elect to meet the standards under § 80.195 by notifying EPA in writing no later than November 15 prior to the year the change will occur.

(3) Any refiner whose status changes under paragraph (b)(1) or (2) of this section shall meet the standards under

§ 80.195 beginning with the first averaging period subsequent to the status change.

[65 FR 6823, Feb. 10, 2000, as amended at 66 FR 19307, Apr. 13, 2001]

EFFECTIVE DATE NOTE: At 69 FR 39167, June 29, 2004, § 80.230 was amended by revising paragraph (b), effective Aug. 30, 2004. For the convenience of the user, the revised text is set forth as follows:

### § 80.230 Who is not eligible for the hardship provisions for small refiners?

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(b)(1)(i) Refiners who qualify as small under § 80.225 and subsequently cease production of diesel fuel from processing crude oil through refinery processing units, or employ more than 1,500 people or exceed the 155,000 bpcd crude oil capacity limit after January 1, 2004 as a result of merger with or acquisition of or by another entity, are disqualified as small refiners, except this shall not apply in the case of a merger between two previously approved small refiners. If disqualification occurs, the refiner shall notify EPA in writing no later than 20 days following this disqualifying event.

(ii) Except as provided under paragraph (b)(1)(iii) of this section, any refiner whose status changes under this paragraph shall meet the applicable standards of § 80.195 within a period of up to 30 months of the disqualifying event for any of its refineries that were previously subject to the small refiner standards of § 80.240(a). However, such period shall not extend beyond December 31, 2007, or, for refineries for which the Administrator has approved an extension of the small refiner gasoline sulfur standards under § 80.553(c), December 31, 2010.

(iii) A refiner may apply to EPA for an additional six months to comply with the standards of § 80.195 if more than 30 months will be required for the necessary engineering, permitting, construction, and start-up work to be completed. Such applications must include detailed technical information supporting the need for additional time. EPA will base its decision to approve additional time on the information provided by the refiner and on other relevant information. In no case will EPA extend the compliance date beyond December 31, 2007, or, for refineries for which the Administrator has approved an extension of the small refiner gasoline sulfur standards under § 80.553(c), December 31, 2010.

(iv) During the period of time up to 30 months provided under paragraph (b)(1)(ii) of this section, and any extension provided under paragraph (b)(1)(iii) of this section, the refiner may not generate gasoline sulfur credits under § 80.310.